

**Response**

Applicant: DuWayne C. Radke et al.

Serial No.: 09/904,124

Filed: July 12, 2001

Docket No.: M120.199.101 (56908US002)

Title: PASS-THROUGH FIRESTOP DEVICE

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**REMARKS**

The following remarks are made in response to the Non-Final Office Action mailed December 7, 2005. In that Office Action, the Examiner provisionally rejected claims 1-7, 10-20, 22, and 23 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending U.S. Serial No. 10/205,180. Claims 1-7, 10-20 and 22-23 remain pending in the application and are presented for reconsideration and allowance.

**IDS Received October 16, 2001**

In the Office Action, the Examiner indicated that no 1449 form was found for the Information Disclosure Statement received by the Patent and Trademark Office on October 16, 2001. Submitted herewith is a copy of a form 1449 that was attached to the Office Action mailed on September 12, 2002. The attached form 1449 is marked as being received by the Patent and Trademark Office on October 16, 2001, and is believed to be the "missing" form 1449 referred to by the Examiner. Each reference listed in the attached copy of form 1449 is initialed by the Examiner as being considered on September 6, 2002. Accordingly, all references included therein have been made of record and have been reviewed by the Examiner. Therefore, Applicant believed that it is unnecessary to re-submit any references previously referred to in an IDS.

**Double Patenting Rejection**

Claims 1-7, 10-20, 22, and 23 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-31 of copending application number 10/205,180. A Terminal Disclaimer relating to U.S. Patent Application No. 10/205,180 is concurrently submitted with this Response. It is respectfully submitted that this Terminal Disclaimer fully addresses the provisional rejection on the grounds of nonstatutory obviousness-type double patenting. Accordingly, Applicant respectfully requests that the double patenting rejection of claims

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1-7, 10-20, 22, and 23 be withdrawn and that claims 1-7, 10-20, 22, and 23 be deemed allowable.

**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 1-7, 10-20, and 22-23 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 1-7, 10-20 and 22-23 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(b)(c). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application. Any inquiry regarding this Amendment and Response should be directed to either David B. Patchett at Telephone No. (651) 736-4713, Facsimile No. (651) 736-3833, or Timothy A. Czaja at Telephone No. (612) 573-2004, Facsimile No. (612) 573-2005.

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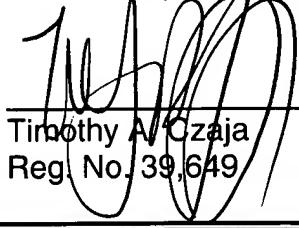
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In addition, all correspondence should continue to be directed to the following address:

**3M Innovative Properties Company**  
P.O. Box 33427  
St. Paul, MN 55133-3427

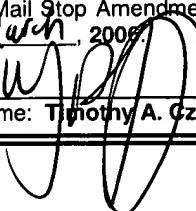
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**CERTIFICATE UNDER 37 C.F.R. 1.8:**

The undersigned hereby certifies that this paper or papers, as described herein, are being deposited in the United States Postal Service, as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 7/12 day of March, 2006.

By:   
Name: Timothy A. Czaja